

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2004-96-T - ORDER NO. 2004-319

JULY 8, 2004

IN RE: Petition of Checker Yellow Cab Company,)	ORDER DENYING
Inc., Blue Ribbon Cab Company, Inc., Yellow)	PETITION FOR
Cab Company of Greenville, Inc., North Area)	RULEMAKING
Taxi, Inc., and Yellow Cab Company of)	
Charleston, Inc. for Rulemaking.)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) on the Application of Checker Yellow Cab Company, Inc., Blue Ribbon Cab Company, Inc., Yellow Cab Company of Greenville, Inc., North Area Taxi, Inc., and Yellow Cab Company of Charleston, Inc. (herein the “Petitioners”) petitioning the Commission to Amend 26 S.C. Regs. 103-222.

In their Petition, the Petitioners have claimed that the language of Regulation 103-222(1) is being interpreted by their insurance carriers as creating an employer-employee relationship between the Petitioners and their taxicab drivers. That Regulation reads in relevant part that:

1. For Drivers. The drivers of leased motor vehicle power units shall be directly supervised and controlled by the lessee. The person who, directly or indirectly, shall supervise or regulate the manner and method of shipment and the use of the motor vehicle or vehicles involved shall be presumed to have a right to control, direct, or dominate such shipment.

Petitioners claim that their drivers are in fact independent contractors but that the use of the terms “controlled” and “control” in the regulation are being interpreted by the

Petitioners' insurance carriers as creating an employer-employee relationship between the Petitioners and their drivers. The effect of this interpretation is that these insurance companies are requiring the Petitioners to carry workers compensation insurance coverage on their drivers. Petitioners claim that they believe that this interpretation and the effect of the regulation in creating an employer-employee relationship are unintended.

Petitioners have asked in their Petition that this Commission correct what they perceive to be this unintended affect of the Regulation by adding a third paragraph to Regulation 103-222 reading as follows:

3. Nothing in this Regulation shall be construed in any way to create or be used as evidence of an employer/employee relationship between any lease drivers and lessees of certificate holders.

After consideration of the facts and allegations set forth in the Petition, the Commission finds that there is insufficient information contained in the Petition or otherwise contained in the record to grant the requested rulemaking sought in the Petition. The Commission has no information as to the affect that such a change may have on workers compensation insurance rates, liability, or the legal relationship between the various Class C Licensees and their drivers. Additionally, even if the Commission were to grant this Petition, the Commission cannot change the regulation in the manner requested without proper notice, publication and submission of such change to the South Carolina Legislature.

In view of the issues raised in the Petition, however, the Commission hereby orders the Commission Staff to investigate the allegations made by the Petitioners, specifically those related to the impact of this regulation on the legal relationship between

the Petitioner companies and their drivers as well as any effect which this regulation, or the proposed change to Regulation 103-222, has or would have on the Workers Compensation or other insurance rates for Class C Licensees in South Carolina. The Staff is ordered to report back to the Commission within thirty days of this Order regarding these or any related issues which they believe to be relevant to the Petition and Regulation 103-222. We conclude that after receiving the Staff report, this Commission should review the information contained in that report in light of the allegations made in the Petition and at that time consider whether to take any action to amend Regulation 103-222.

IT IS THEREFORE ORDERED:

1. That the Petition is Denied.
2. That the Staff shall research the issues raised in the Petition and as further specified in this Order and report back to this Commission within thirty days of this Order.
3. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
Bruce F. Duke, Executive Director
(SEAL)